

| Notice of Allowability | Application No. | Applicant(s) |
|-------------------------------|--------------------------|---------------------|
| | 09/815,434 | LAPSLY ET AL. |
| | Examiner John W Hayes | Art Unit 3621 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to Amendment filed 12 October 2004.

2. The allowed claim(s) is/are 1-8,10-14 and 26-64.

3. The drawings filed on 27 February 2003 are accepted by the Examiner.

4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of the:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) hereto or 2) to Paper No./Mail Date _____.

(b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of
Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1. Notice of References Cited (PTO-892)
- 2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
- 4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
- 5. Notice of Informal Patent Application (PTO-152)
- 6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
- 7. Examiner's Amendment/Comment
- 8. Examiner's Statement of Reasons for Allowance
- 9. Other _____.

John W Hayes
Primary Examiner
Art Unit: 3621

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 12 October 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,662,166 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

2. Claims 1-8, 10-14, 26-64 are allowed over the prior art of record.
3. The following is an examiner's statement of reasons for allowance:

The closest prior art of record is U.S. Patent Nos. 5,546,523 to Gatto, U.S. Patent No. 5,485,510 to Colbert and 6,028,950 to Merjanian.

Gatto shows a method for authorization of an electronic payment between a payor and a payee using an electronic third party and at least one payor biometric sample. Merjanian also disclose a method for commerce by employing fingerprint authorization by comparing a consumers fingerprint data with previously stored fingerprint data and authorizing a transaction without the use of any man made tokens.

Colbert teaches a secure credit authorization and teaches the use of identification registration data for a payee and comparing this data with the payee identification data to authorize the transaction.

Merjanian discloses a method of commerce employing the use of biometrics wherein a point of purchase terminal together with a biometric reader is used to carry out a transaction in locations such as retail stores, restaurants and resorts. Merjanian discloses that cards such as VISA, MasterCard and American Express can be presented to carry out the transaction where the merchant would forward the transaction to a financial transaction processor such as VISA or American Express.

With regard to Claims 1 and 29, the closest prior art of record when taken either individually or in combination with other prior art of record fails to teach or suggest a biometric theft resolution step wherein the payor's PIN is changed whenever the payor's biometric sample is determined to have been fraudulently duplicated. Claims 2-8, 10-14, 26-28, 31-32 and 35-36 are dependent upon claim 1 and thus

Art Unit: 3621

have all the limitations of claim 1 and are allowable for that reason. Claims 30, 33-34, 37-38 are dependent upon claim 29 and thus have all the limitations of claim 29 and are allowable for that reason.

With regard to Claims 39 and 59, the closest prior art of record when taken either individually or in combination with other prior art of record fails to teach or suggest forming and executing an electronic financial transaction comprising a transaction amount and an account index code identifying a payor financial account and forwarding this information to a financial transaction processor for authorization. Claims 40-58 are dependent upon claim 39 and thus have all the limitations of claim 39 and are allowable for that reason. Claims 60-64 are dependent upon claim 59 and thus have all the limitations of claim 59 and are allowable for that reason.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 3621

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 305-3900**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Commissioner of Patents and Trademarks

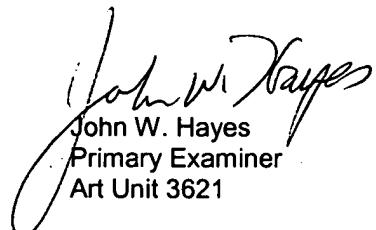
Washington, D.C. 20231

or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-5531 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington,
VA, 7th floor receptionist.


John W. Hayes
Primary Examiner
Art Unit 3621